THE HON'BLE SRI JUSTICE C.V. RAMULU

Thursday, 28th day of December, 2006

W.P.No.14447 of 2000

Between:

Pidugu Venkaiah & others … Petitioners

and

The Superintending Engineer,
Irrigation Circle, Nellore & others … Respondents

THE HON'BLE SRI JUSTICE C.V. RAMULU

W.P.No.14447 of 2000

ORAL ORDER:

This Writ Petition is filed seeking a Mandamus declaring the action of respondents 1 and 2 in digging a new channel and linking the proposed new channel with old Yellayapalem channel, for the purpose of release of water is arbitrary, illegal and contrary to the Proceedings of the 3rd respondent dated 30-5-2000 and consequently to direct respondents 1 and 2 not to proceed with digging of a new channel and linking the same with old Yellayapalem channel for the purpose of release of water by directing respondents 1 and 2 to implement the said Proceedings of the 3rd respondent dated 30-5-2000.

It appears that the petitioners are all agriculturists. It is their case that the State Government has initiated a novel scheme under drought relief programme, which is called 'Neeru-Meeru' for the year 2000-01. Under this programme, after receiving estimates from Irrigation Department for various tanks in the Districts and depending upon the necessity, the Government released the funds. After releasing funds by the Government, the District Collector used to grant administrative sanction for execution of the works. It was also made clear that the amount, which has been released for the year 2001-2001, was only for the specific purpose of repairs and improvement of irrigation tanks, but not for any other purpose. While so, the Assistant Engineer, Irrigation Department, Butchireddypalem sent estimates for repairs and improvement with regard to old Yellayapalem Channel, Thurimerla

Channel and Duvuru tank. Thereupon, the 3rd respondent, vide Order dated 30-5-2000 accorded administrative sanction of Rs.5.42 lakhs for execution of three works to the said channels and tank. Insofar as old Yellayapalem channel is concerned, the nature of work is improvement of the carrying capacity of old channel and excavation of leading channel. However, while issuing the Proceedings, the 3rd respondent directed the 2nd respondent to execute the works as per the norms prescribed by the Government and Rules existing in force. Thus, the 2nd respondent under the supervision of the 1st respondent has to execute the repairs of old Yellayapalem channel in order to improve its carrying capacity. All the lands of Ayacutdars are situated at the tail end; as such, they could not get adequate water for several years and in view of the same, the said Ayacutdars are demanding the 3rd respondent to execute the repairs to old Yellayapalem channel in order to get adequate water, but the State Government did not release any funds and the respondents failed to attend to the repairs of old Yellayapalem channel and in the net result, the tail end Ayacutdars suffered a lot. Basing on the persistent demand by the petitioners and other Ayacutdars, eventually the Government released the funds under 'Neeru Meeru' programme. Instead of taking repair works to Yellayapalem channel, respondents 1 and 2 are acting contrary to the policy and sanctioning the amount for the purpose of digging a new channel under old Yellayapalem channel. After digging the new channel, respondents 1 and 2 have to link up the channel to the existing old Yellayapalem channel for releasing the water. If at all this is allowed to go, it will not benefit the Ayacutdars at all. Therefore, the Writ Petition.

A detailed counter affidavit has been filed by the 2nd respondent denying the allegations made by the petitioner and

asserting *inter alia* that the District Collector, Nellore accorded sanction vide Proceedings dated 30-5-2000 for improving carrying capacity of old Yellapalem channel and also excavation of a leading channel. As per the said Order, the work has been executed. The executing agency has been shown by mistake as 'Executive Engineer, Kavali' in the Proceedings dated 30-5-2000 instead of 'Executive Engineer, Central Division, Nellore'. Further, the allegation that only three Ayacutdars will be benefitted is false. Due to improvements to old Yellayapalem channel and digging the leading channel, irrigation facility will be extended to the additional Acs.35.00 of Ayacut in Bonthalapalem without any detriment or harm to any one including the petitioners. The allegations that funds are being diverted for other purposes and the petitioners and other tail end Ayacutdars will not get water are all false and baseless. On the other hand, the work is in the interests of all the Ayacutdars.

At the time of admission of the Writ Petition on 7-8-2000, no interim order was passed. No reply has been filed by the petitioners contraverting the averments made in the counter. From the averments made in the counter, it is seen that the work has already been executed by the Department and as such, nothing survives for adjudication in the Writ Petition.

The Writ Petition is, therefore, dismissed. No order as to costs.

28-12-2006

prk